

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

ANDREW GUIDRY, DO, LtCol,
USA (ret),

Plaintiff,

v.

Case No.: 2:21-cv-769-SPC-NPM

CENTERS FOR MEDICARE AND
MEDICAID SERVICES,

Defendant.

_____ /

OPINION AND ORDER¹

Before the Court is Defendant Centers for Medicare and Medicaid Service's Unopposed Motion to Dismiss the Amended Complaint. ([Doc. 29](#)). This case is about Medicare recoupment. Plaintiff Dr. Andrew Guidry, appearing pro se, first sued Defendant to get the federal agency to return recouped funds and to stop new recoupment efforts. The Court dismissed without prejudice the complaint for failure to exhaust administrative remedies. ([Doc. 27](#)). Plaintiff then filed an Amended Complaint only challenging new recoupment efforts. ([Doc. 28](#)). Defendant now moves to

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dismiss the Amended Complaint for lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted because Plaintiff hasn't exhausted his administrative appeal requirements for any new claim against recoupment. Plaintiff does not oppose Defendant's motion. (Doc. 29 at 1, 4).

After considering the papers, record, and applicable law, and because Defendant's motion is unopposed, the Court grants the requested relief and dismisses the Amended Complaint. Plaintiff must first exhaust his administrative remedies and then, if he remains dissatisfied, he may timely seek the Court's review of that final decision.

Accordingly, it is now **ORDERED**:

Defendant Centers for Medicare and Medicaid Service's Unopposed Motion to Dismiss Amended Complaint (Doc. 29) is **GRANTED**.

1. The Amended Complaint (Doc. 28) is **DISMISSED without prejudice**.
2. The Clerk is **DIRECTED** to enter judgment, terminate any deadlines, and close the file.

DONE and ORDERED in Fort Myers, Florida on April 22, 2022.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record